

ANDRE MOORE JR.
Plaintiff,
v.
THE STATE OF WASHINGTON
DEPARTMENT OF AGRICULTURE
Defendant

) Cause No.:
)
)
) **COMPLAINT**
)
) **JURY DEMAND**
)
)
)

PARTIES

JURISDICTION AND VENUE

COMPLAINT
PAGE 1

REBA WEISS
WEISS LAW FIRM PLLC
P.O. Box 30759
Seattle, WA 98113
reba@weisslawfirm.org

1 4. Plaintiff timely filed a charge of discrimination with the EEOC and has obtained
2 his Notice of Right to Sue the Defendant, attached. This Complaint is being filed
3 within 90 days of receipt of the Notice of Right to Sue.

4 5. Plaintiff timely filed a tort claim against the State and over 60 days have passed
5 since filing. See attached.

6 6. This Court has federal question jurisdiction pursuant to 28 U.S.C.S. § 1331 for
7 Plaintiff's claims under Title VII, 42 USCS § 2000e et seq. and 42 U.S.C.S § 1981.
8

9 **SUMMARY OF FACTS**

10 7. Plaintiff Moore became employed with Defendant Washington State Department
11 of Agriculture on May 1, 2018.

12 8. While employed with the Department, the following were among the statements
13 and conduct directed at Plaintiff, primarily by his supervisor, Mark Marshall:

- 14 i. On 8/23/2019, Mr. Marshall told Plaintiff "That's funny because you normally see
15 your kind of people for (sic) being lazy and sleeping", while laying his head on the
16 desk and pretending to sleep;
- 17 ii. On 8/26/2019, Mr. Marshall stopped Plaintiff, grabbed his hand, and held it to some
18 grain product and said, "This is the color of heat damage", comparing Plaintiff's
19 skin color to the damaged product;
- 20 iii. On 8/28/2019, John Simon, a co-worker of Plaintiff's, used profanity directed at
21 Plaintiff telling him "Fuck you" to his face;
- 22 iv. On 9/11/2019, another co-worker threw some keys at Plaintiff while ordering him
23 to "go move the car". This was witnessed by Mr. Marshall;
- 24 v. On 10/01/2019, Mr. Simon told Plaintiff to "Shut the fuck up". Mr. Marshall
25 witnessed this incident without providing any response;

- vi. On October 2, 2019, Plaintiff complained about the racist comments and conduct to management and to Defendant executives;
- vii. Plaintiff was passed over for a permanent position by the appointment of a Caucasian male who had less experience and seniority than Plaintiff;
- viii. On 10/11/2019, Plaintiff filed a charge of race discrimination with the Equal Employment Opportunity Office (EEOC);
- ix. On 06/09/2020, while the EEOC charge and investigation of discrimination were pending, the Department discharged Plaintiff;
- x. On 11/03/2020, Plaintiff filed a charge of retaliation with the EEOC.

9. The totality of the circumstances created a hostile work environment for Plaintiff. Plaintiff felt humiliated, depressed, discouraged, and treated as though he were less than human. These circumstances affected his ability to perform his job duties.

10. Since Defendant terminated Plaintiff's employment, Plaintiff was forced to relocate for work and now lives a four-hour drive from his three children.

CAUSES OF ACTION

Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth herein.

I. Race Discrimination.

1. Defendant's discriminatory treatment of Plaintiff, including creating a hostile work environment and denying his promotion, constitutes race discrimination in violation of Title VII, 42 U.S.C.S. § 2000e *et seq.* and Washington's Law Against Discrimination, RCW 49.60 *et seq.*

1 2. Plaintiff has been damaged by Defendant's race discrimination in an amount to
2 be proved at trial.

3 **II. Harassment Based on Race.**

4 3. Defendant's mistreatment of Plaintiff was severe and pervasive, affected the
5 terms and conditions of his employment, was based on his race, and constituted a
6 hostile environment in violation of Title VII, 42 U.S.C.S. § 2000e *et seq.* and
7 Washington's Law Against Discrimination, RCW 49.60 *et seq.*

8 4. Plaintiff has been damaged by Defendant's harassment based on race, and failure
9 to remedy harassment directed at Plaintiff on the basis of his race, in an amount to
10 be proved at trial.

11 **III. Violation of 42 USC § 1981.**

12 5. Plaintiff is a member of a racial minority.

13 6. Defendant intentionally discriminated against Plaintiff, and permitted
14 harassment to be committed against Plaintiff, on the basis of his race denying him
15 the full and equal benefit of his employment relationship.

16 7. Plaintiff Moore has been damaged by Defendant's discrimination under 42 USC
17 § 1981 in an amount to be proved at trial.

18 **IV. Retaliation**

19 8. Plaintiff's complaints to management and his filing a charge with the EEOC
20 were substantial factors in Defendant's decision to take adverse action against
21 him. Defendant's adverse employment actions against Plaintiff were retaliatory
22 in violation of federal and state anti-retaliation laws, 42 U.S.C.S. 2000e-3(a),
23
24

1 and RCW 49.60.210.

2 9. Plaintiff has been damaged by Defendant's retaliation in an amount to be
3 proved at trial.

4 **PRAYER FOR RELIEF**

5 Plaintiff requests that the court enter judgment against Defendant as
6 follows:

- 7
- 8 1. Awarding Plaintiff the full amount of his damages under Title VII and
9 RCW 49.60 in amounts to be established at trial;
 - 10 2. Awarding Plaintiff the full amount of his damages under 42 U.S.C. §1981a
11 in amounts to be established at trial;
 - 12 3. Awarding Plaintiff prejudgment interest on any awards;
 - 13 4. Awarding Plaintiff his statutory costs and fees;
 - 14 5. Awarding Plaintiff his actual and reasonable attorneys' fees and litigation
15 expenses under 42 U.S.C.S. § 2000e-5(k) and RCW 49.60.180, and
16 compensatory and punitive damages under 42 U.S.C.S. § 1981a(4);
 - 17 6. Awarding Plaintiff monetary relief to compensate for any adverse tax
18 consequences of his award; and
 - 19 7. Awarding Plaintiff such other and further relief as the court deems just and
20 equitable.
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III. JURY DEMAND

Plaintiff hereby demands a trial by jury on all factual issues presented in this case.

DATED this 6th day of April, 2021.

s/Reba Weiss
Reba Weiss, WSBA #12876
Attorney for Plaintiff Moore Jr.

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2 his Notice of Right to Sue the Defendant, attached. This Complaint is being filed
3 within 90 days of receipt of the Notice of Right to Sue.

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EEOC Form 161 (11/2020)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: **Andre Moore, Jr.**
23606 51st Ave
Kent, WA 98032

From: **Seattle Field Office**
909 First Avenue
Suite 400
Seattle, WA 98104-1061



On behalf of person(s) aggrieved whose identity is
 CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

551-2021-00339

Angie Rivera,
Investigator Support Asst

(206) 220-6912

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- ☐ The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
- ☐ Your allegations did not involve a disability as defined by the Americans With Disabilities Act.
- ☐ The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
- ☐ Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.
- ☒ The EEOC issues the following determination: The EEOC will not proceed further with its investigation, and makes no determination about whether further investigation would establish violations of the statute. This does not mean the claims have no merit. This determination does not certify that the respondent is in compliance with the statutes. The EEOC makes no finding as to the merits of any other issues that might be construed as having been raised by this charge.
- ☐ The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
- ☐ Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed **WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

For

Nancy A. Sienko,
Director

January 08, 2021

(Date Issued)

Enclosures(s)

cc:

WASHINGTON STATE DEPARTMENT OF AGRICULTURE
Attn: Laurie Dejong
PO Box 42560
Olympia, WA 98504-2560



Bob Ferguson
ATTORNEY GENERAL OF WASHINGTON
Torts Division

PO Box 40126 • Olympia, WA 98504-0126 • (360) 586-6300

February 24, 2021

Reba Weiss
Weiss Law Firm PLLC
8306 Greenwood Avenue North
PO Box 30759
Seattle, WA 98113

RE: **Claim of Moore, Andre**
ORM No. 4951004713

Greetings:

We are in receipt of a copy of your client's claim against the State of Washington in the amount of \$1,000,000.00, filed with the Department of Enterprise Services' Office of Risk Management on February 3, 2021. This acknowledgement does not indicate the State's agreement that this claim should be allowed or is legally sufficient. Per RCW 4.92.110, any further action to pursue this claim will be your responsibility.

Any further correspondence or inquiries you have about this claim should be directed to the undersigned at:

Office of the Attorney General
Torts Division
7141 Cleanwater Drive SW
PO Box 40126
Olympia, WA 98504-0126

Very truly yours,

Gregory G. Silvey

GREGORY G. SILVEY
Section Chief, Early Resolution/Investigations
(360) 586-6300

GGG / jb